

REMARKS

Claims 34, 36-41, 43-45, 54, 55, 66, 72-75, 78-82, 84, 85, 92, 93, 101, 108-128 are now pending in the application. Claims 34, 43-45, 54, 55, 72, 78, and 79 are now amended. The amendments are fully supported by the application as filed and do not present new subject matter. Claims 1-33, 35, 42, 46-53, 56-65, 67-71, 76, 77, 83, 86-91, 94-100, 102-107 are now cancelled. Claims 108-128 are now added. The new claims are fully supported by the application as filed and do not present new subject matter. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

ELECTION / RESTRICTION REQUIREMENT

Claims 48-51, 56, 58-65, 83, 88-91, 94, 97-100, and 102-107 stand withdrawn as being allegedly directed to non-elected inventions. Election was made without traverse in the reply filed on 2-1-2005. Applicants assert that, as set forth in the application as filed, many of the features of the withdrawn claims can be incorporated into other embodiments of the present invention, such as the elected embodiment of Figure 19. However, in order to expedite prosecution of this application, Applicants now cancel these claims without prejudice.

Claims 42, 46, 47, 52, 53, 57, 86, 87, and 95 are additionally withdrawn from consideration as allegedly being drawn to a non-elected species. This rejection is respectfully traversed. As set forth in the application as filed, the features recited in these claims can be incorporated into the other embodiments presented, such as the

embodiment of Figure 19. However, in order to expedite prosecution of this Application, Applicants now cancel these claims without prejudice.

REJECTION UNDER 35 U.S.C. § 112

Claims 33-41, 43-45, 54, 55, and 66 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

Specifically, Claim 33 stands rejected for lacking antecedent basis for the feature “the bridge regions.” Claims 44 and 45 each stand rejected because the feature “one or more of the bridge regions” lacks antecedent basis. These rejections are respectfully traversed.

Claim 33 is now cancelled. Applicants now amend Claims 44 and 45 to correct the typographical error. The amendments do not narrow the claim scope. Therefore, Applicants respectfully request reconsideration and withdrawal of this Section 112 rejection.

REJECTION UNDER 35 U.S.C. § 102

Claims 33-35, 40, 41, 43-45, 54, 55, 66, 72-76, 81, 82, 84, 85, 92, 93 and 101 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Talos et al. (U.S. Pat. No. 5,709,686). This rejection is respectfully traversed.

Of the claims rejected under Section 102, the only independent claims are Claims 33 and 72.

Independent Claim 33 is now cancelled. Therefore, this Section 102 rejection of Claim 33 and those claims previously dependent therefrom is now moot.

Independent Claim 72 is now amended to include the features of Claim 77, which the Examiner has indicated is allowable. Therefore, amended Claim 72 is now in a condition for allowance at least because it includes the allowable subject matter of Claim 77. Applicants respectfully request reconsideration and withdrawal of this Section 102 rejection of Claim 72 and those claims dependent therefrom.

REJECTION UNDER 35 U.S.C. § 103

Claims 39 and 80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Talos in view of Tschakaloff (U.S. Pat. No. 5,607,427). This rejection is respectfully traversed.

Claim 39 was previously dependent upon Claim 33. Claim 33 is now cancelled. Therefore, this Section 103 rejection of Claim 39 is now moot.

Claim 80 is dependent upon Claim 72. As set forth above, Claim 72 is now in a condition for allowance. Therefore, Claim 80 is also now in a condition for allowance. Applicants respectfully request reconsideration and withdrawal of this Section 103 rejection of Claim 80.

ALLOWABLE SUBJECT MATTER

The Office Action states that claims 36-38 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for recognizing the patentable features of Claims 36-38. However, Applicants do not wish to present the subject matter of these claims in independent form at this time.

The Examiner states that Claims 77-79 would be allowable if rewritten in independent form. Accordingly, Applicants now amend Claim 72 to include the allowable features of Claim 77.

Applicants wish to point out that Claims 36-38 and 77-79 are patentable for numerous reasons in addition to the reasons set forth in the Office Action.

NEW CLAIMS

New Claims 108 -128 are now added. The new claims are fully supported by the application as filed and do not present new subject matter. Consideration of the new claims is respectfully requested.

Of the claims added, only Claims 108 and 111 are independent claims. Claims 34, 36-41, 43-45, 54, 55, and 66 have been re-written to be dependent upon Claim 108. New Claims 109 and 110 are also dependent upon Claim 108. Claims 112-128 are dependent upon Claim 111.

Claims 108 and 111 each generally recite, in part and with reference to Figure 19a for exemplary purposes only as the invention includes numerous embodiments, a first bone fixation region 36N having a first surface (the upper surface of 36N as illustrated in Figure 19a) and a second surface (the lower surface of 36N as illustrated in Figure 19a) that is opposite the first surface. A second bone fixation region 36N has a third surface and a fourth surface that is opposite the third surface. A bridge region 38N

extends between the first bone fixation region and the second bone fixation region. The bridge region includes a fifth surface (the upper surface of 38N as illustrated in Figure 19a) and a sixth surface (the lower surface of 38N as illustrated in Figure 19a) that is opposite the fifth surface.

With respect to Claim 108, an upper plane extends from the first surface to the third surface. A lower plane extends from the second surface to the fourth surface. The lower plane contacts the bone when the device is mounted to the bone. A first gap is formed between the fifth surface and the upper plane. A second gap 74N (Figure 19c) is formed between the sixth surface and the lower plane. The first gap is opposite the second gap.

With respect to Claim 111, the fifth surface is recessed beyond the first and third surfaces to form a first gap. The sixth surface is recessed beyond the second and fourth surfaces to form a second gap 74N (Figure 19a). The first gap is opposite the second gap.

The features of Claims 108 and 111 are not disclosed or suggested by the art of record.

For example, the Talos et al. reference appears to disclose, with reference to Figure 1, a bone plate having a plurality of holes 2. As illustrated in Figure 6, the bone plate appears to include a notch or cut-out portion between the holes 2 on a surface of the plate that contacts bone when the plate is secured to bone. The portion of the plate opposite the notch or cut-out portion is planar and does not include a similar notch or cut-out portion.

The Talos et al. reference fails to disclose or suggest both a first gap and a second gap opposite the first gap, as set forth in Claims 108 and 111. As a result, the Talos et al. reference fails to disclose or suggest each and every feature of new Claims 108 and 111, and those claims dependent therefrom. Therefore, the Talos et al. reference fails to anticipate or render obvious Claims 108 and 111, and those claims dependent therefrom.

Applicants respectfully request consideration and allowance of new Claims 108 and 111, as well as those claims dependent therefrom.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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